



Office of the Attorney General
State of Texas

October 3, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. Frank Waite
Assistant City Attorney
City of Arlington
P. O. Box 231
Arlington, Texas 76004-0231

OR92-572

Dear Mr. Waite:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17191.

The City of Arlington (the city) received open records requests pertaining to a disannexation of a portion of the city, which is the subject of a lawsuit currently pending against the city. Specifically, the requestor seeks copies of 1) affidavits pertaining to the posting of sample disannexation petitions, 2) the disannexation petitions signed by the residents of the area asking for disannexation, 3) the city ordinance originally enacting the annexation (City Ordinance No. 85-121), and 4) the service plan for that ordinance. Because the requested information "relates" to pending litigation against the city, you seek to withhold the information pursuant to section 3(a)(3) of the Open Records Act. See Open Records Decision No. 551 (1990).

In addition to the documents at issue, you have submitted to this office for review a copy of the Plaintiff's Original Petition in the lawsuit *Jim Mitchell and Tommy Bower v. The City of Arlington*, No. 67-143935-92 (Dist. Ct. of Tarrant County, 67th Judicial Dist. Texas (Aug. 19, 1992)). Attached to the petition as exhibits are what appear to be the requested affidavit and petitions.¹ Because the requestor, as the petitioner in the lawsuit, has obviously seen these documents, the city may not now withhold them under section 3(a)(3). Open Records Decision

¹Also included as exhibits to the petition are copies of Arlington, Tex., Ordinance 85-182 (Aug. 20, 1985) and the service plan for that ordinance. These two documents are not the subject of the current request.

Nos. 349, 320 (1982). Accordingly, to the extent that the exhibits consist of the information sought by the requestor, the city must now release these documents.

With regard to the remaining requested information, this office has previously held that city ordinances may not be withheld from the public pursuant to section 3(a)(3). See Open Records Decision No. 551 at 2-3. Accordingly, the city must release City Ordinance No. 85-121. Similarly, the city must also release the requested service plan to the extent that the plan was incorporated into that ordinance.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-572.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Opinion Committee

KHG/RWP/lmm

Ref.: ID# 17191

Enclosures: Submitted documents

cc: Mr. Jim Mitchell
6708 Arlington Webb
Arlington, Texas 76018
(w/o enclosures)